

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Docket No.: 1:20-11979 GAO

JAYLIMAR NATAL-LUGO, individually and as
Special Personal Representative of the ESTATE
OF LARRY RUIZ BARRETO, and as
Conservator of and on behalf of her and the
decedents minor child, Plaintiff L.A.R-L; DEMIX
RUIZ, individually, and as co-Special Personal
Representative of the ESTATE OF LARRY
RUIZ BARRETO; LESLIE LUGO, JONATHAN
RUIZ-HERNANDEZ, MIGUEL SANCHEZ, and
JOSE RUIZ-HERNANDEZ,
Plaintiffs,

v.

CITY OF FALL RIVER, IAN SCHACHNE, in
his capacity as Treasurer of the CITY OF FALL
RIVER, JASIEL CORREIA, in his individual
capacity and official capacity as Mayor of Fall
River 2015-2019, FALL RIVER POLICE
DEPARTMENT; and Police Officers
NICHOLAS HOAR, DANIEL RACINE,
ALBERT DUPERE, ALLAN CORREIRO,
MICHAEL PESSOA, DEREK OAGLES,
MICHAEL SILVA, ROSS AUBIN, TYLER
PAQUETTE, SEAN AGUIAR, BRENDEN
MCNEMEY, PETER DALUZ, JENNIFER
DELEON, THOMAS ROBERTS, JOHNATHAN
DESCHENES, DAVID MCELROY,
SERGEANT GREGORY BELL, and JOHN
DOES 1-25, in their individual capacities and
official capacities,
Defendants

DEFENDANT NICHOLAS HOAR'S ANSWER TO PLAINTIFFS' COMPLAINT

Nicholas Hoar ("Defendant") hereby answers the Plaintiffs' Complaint (Document 1)
("Complaint").

1. The Defendant states that this paragraph of the Plaintiffs' Complaint is introductory only and therefore does not require a response. To the extent that the paragraph alleges facts and a response is required, the Defendant denies the allegations.
2. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

JURISDICTION

3. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
4. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
5. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

VENUE

6. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

PARTIES

7. The Defendants states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
8. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is

without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

9. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
10. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
11. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
12. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
13. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

14. The Defendant admits that the City of Fall River is a governmental entity in Massachusetts and that it operates a police department. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
15. The Defendant admits that Jasiel Correia is a former mayor of the City of Fall River. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
16. The Defendant admits that the Fall River Police Department is located at 685 Pleasant Street, Fall River, MA 02721. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
17. The Defendant admits that Daniel Racine and Albert Dupere are former chiefs of the Fall River Police Department. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
18. The Defendant admits that he is a police officer and employee of the City of Fall River. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
19. The Defendant admits that the referenced individuals were employees of the Fall River Police Department. The Defendant states that the remaining allegations in this paragraph contain legal conclusions to which no response is required.
20. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint. Responding further, the allegations in this paragraph contain legal conclusions to which no response is required.

21. The Defendant admits that he acted as a police officer. Responding further, the Defendant states that the remaining allegations in this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
22. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint. Responding further, the allegations in this paragraph contain legal conclusions to which no response is required.
23. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
24. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

STATEMENT OF FACTS

"DRAG RACING IN FALL RIVER INDUSTRY PARK WAS WELL KNOWN TO FALL RIVER POLICE OFFICER NICHOLAS HOAR – AND EVENTS LEADING UP TO HIM SHOOTING 19 YEAR OLD LARRY RUIZ-BARRETO"

25. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
26. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
27. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
28. The Defendant denies that the Decedent was law-abiding. Responding further, the Defendants is without knowledge or information sufficient to form a belief as to the

truth of the remaining allegations contained in this paragraph of the Plaintiffs' Complaint.

29. The Defendant admits that he advised participants and citizens not to drag race on the prior evening. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph of the Plaintiffs' Complaint.

30. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

31. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

32. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

33. The Defendant admits that he and police officer Allan Correiro were dispatched to the scene and travelled in separate police Ford Explorers. Responding further, the Defendants is without personal knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph of the Plaintiffs' Complaint.

“OFFICER HOAR’S UNLAWFUL SHOOTING OF LARRY RUIZ-BARRETO”

34. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

35. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

36. The Defendants state that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

37. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

38. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

39. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

40. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

41. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

42. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

43. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

“OFFICER NICHOLAS HOAR AND OFFICER CORREIRO’S COVERUP STORY”

44. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

45. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

46. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
47. The radio transmissions including as aired on television as referenced in this paragraph of the Plaintiffs' Complaint speaks for itself and therefore no response is required.
48. The referenced "newswire" and exhibit referenced in this paragraph of the Plaintiffs' Complaint speaks for itself and therefore no response is required.
49. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
50. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
51. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
52. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
53. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
54. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions and hypothetical arguments to which no response is required.

“THE SHOOTING INCIDENT BY OFFICER’S [SIC] HOAR LED TO THE UNPROVOKED
POLICE ASSAULT ON THE DECEDENT’S FAMILY 2 HOURS LATER AS THEY
PEACEFULLY MOURNED AT THE HOSPITAL”

55. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

56. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

57. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

58. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

59. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

60. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

61. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs’ Complaint.

62. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

63. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

64. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

65. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

66. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

67. (a-d) The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

68. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

MONELL LIABILITY

69. (a-c) The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

70. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

71. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

72. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

73. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

74. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

75. The Defendant states that the first sentence of this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required. Responding further, the Defendant denies the remaining allegations contained in this paragraph of the Plaintiffs' Complaint.

76. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

77. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

78. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

79. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

80. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

81. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

"MALICIOUS PROSECUTION"

82. The "public bulletin" referenced in this paragraph of the Plaintiffs' Complaint speaks for itself and therefore no response is required.

83. The Defendant denies the allegations as contained in this paragraph of the Plaintiffs' Complaint.

84. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

85. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

86. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

87. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

88. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.

89. The Defendant denies that the shooting was unjustified. As to criminal court filings, the Defendant is without personal knowledge or information sufficient to form a

- belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint. Answering further, the Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.
90. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
91. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph of the Plaintiffs' Complaint.
92. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
93. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
94. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint.
95. The Defendant is without personal knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Plaintiffs' Complaint. Answering further, the Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

“DAMAGES”

96. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

97. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

98. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

99. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

100. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

101. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

CLAIMS of ESTATE OF LARRY RUIZ-BARRETTO

(42 U.S.C. § 1983)

COUNT I – Part A

Failure to Recruit, Train, Discipline, and Supervise

102. The Defendant incorporates by reference the paragraphs above.

103. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

104. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

105. The Defendant denies the allegations contained in this paragraph of the Plaintiffs’ Complaint.

106. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

107. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT I – Part B

Claim Against Officer Nicholas Hoar for Violating Larry Ruiz-Barreto's Fourth Amendment Rights Predicated on The Intentional or Reckless Use of Deadly Force During the Court of an Unlawful Seizure in Violation of 42 U.S.C. §1983

108. The Defendant incorporates by reference the paragraphs above.

109. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

110. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

111. (a-f) The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

112. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

113. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

114. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

115. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

116. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

117. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT I – Part C
Claim Against Officer Nicholas Hoar for Violating Larry Ruiz-Barreto's
Fourth Amendment Rights by his Objectively Unreasonable conduct, including
the unlawful Investigative Stop, Exceeding the Lawful Scope of an Investigative Stop
and Seizure, and Infliction of Unreasonable Deadly Force During the Course
Of A Seizure in Violation of 42 U.S.C. §1983

118. The Defendant incorporates by reference the paragraphs above.

119. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

120. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

121. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

122. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

123. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

124. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

125. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

126. (a-f) The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

127. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

128. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

129. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

130. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

131. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

132. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT I – Part D

Claims Against Officer Nicholas Hoar Predicated Upon Reckless Or Callous Indifference To Larry Ruiz-Barreto's Rights Under The Fourteenth Amendment To The United States Constitution In Violation of 42 U.S.C. § 1983

133. The Defendant incorporates by reference the paragraphs above.

134. The Defendant states that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

135. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

136. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

137. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

138. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

139. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

140. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

141. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

142. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

143. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT I – Part E

**Claims Against Officer Nicholas Hoar For Punitive Damages Under 42 U.S.C. § 1983
Predicated On The Excessive Use Of Deadly Force In Violation Of The Fourth Amendment
And For The Deprivation Of Life Without Due Process Of Law In Violation Of The
Fourteenth Amendment**

144. The Defendant incorporates by reference the paragraphs above.

145. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT II

**(Survival action: Violation of decedent's civil rights)
(42 U.S.C. § 1983)**

146. The Defendant incorporates by reference the paragraphs above.

147. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

148. The Defendants state that this paragraph of the Plaintiffs' Complaint contains legal conclusions to which no response is required.

COUNT III
(Conspiracy to Violate Decedent's Civil Rights)
(42 U.S.C. §§ 1985, 1986)

149. The Defendant incorporates by reference the paragraphs above.
150. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
151. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT IV
(Violation of Decedent's Right To Enjoy Civil Rights)
(Violation of M.G.L. c. 12, Sec. 11I)

152. The Defendant incorporates by reference the paragraphs above.
153. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT V
Claim Against Nicholas Hoar For Wrongful Death Under G.L. c. 229, § 2 Predicated on
Intentional or Reckless Conduct

154. The Defendant incorporates by reference the paragraphs above.
155. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
156. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.
157. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT VI
(Assault and Battery)

158. The Defendant incorporates by reference the paragraphs above.

159. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT VII
(Intentional or Reckless Infliction of Emotional Distress)

160. The Defendant incorporates by reference the paragraphs above.

161. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

162. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

CLAIMS OF DEMIX-HERNANDEZ, LESLIE LUGO, JONATHAN RUIZ-HERNANDEZ, MIGUEL SANCHEZ, AND JOSE RUIZ-HERNANDEZ

COUNT VIII
(Violation of Civil Rights)
42 U.S.C. § 1983; M.G.L. c. 12, Sec. 11I

163. The Defendant incorporates by reference the paragraphs above.

164. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

165. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

166. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

167. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

168. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

169. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

170. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

171. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

172. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

173. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

174. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT IX
(Conspiracy to Violate Civil Rights)
(42 U.S.C. §§ 1985, 1986)

175. The Defendant incorporates by reference the paragraphs above.

176. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

177. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT X
(Assault and Battery)

178. The Defendant incorporates by reference the paragraphs above.

179. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

**COUNT XI
(False Arrest)**

180. The Defendant incorporates by reference the paragraphs above.

181. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

**COUNT XII
(False Imprisonment)**

182. The Defendant incorporates by reference the paragraphs above.

183. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

**COUNT XIII
(Malicious Prosecution)**

184. The Defendant incorporates by reference the paragraphs above.

185. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

**COUNT XIV
(Intentional or Reckless Infliction of Emotional Distress)**

186. The Defendant incorporates by reference the paragraphs above.

187. The Defendant denies the allegations contained in this paragraph of the Plaintiffs' Complaint.

COUNT XV

CLAIMS of ALL PLAINTIFF'S [sic]

**(Monell Liability – Part A)
(42 U.S.C. [sic]1983)**

188. The Defendant incorporates by reference the paragraphs above.
189. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
190. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
191. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
192. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
193. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
194. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
195. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
196. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.
197. (a-e) The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

198. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

199. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

200. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

201. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

202. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

(Monell Liability – Ratification – Part B)
(42 U.S.C. [sic]1983)

203. The Defendant incorporates by reference the paragraphs above.

204. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

205. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

206. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

207. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

208. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

209. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

210. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

COUNT XVI
Negligence v. City of Fall River for General Negligence,
in Violation of M.G.L. c. 258 § 4

211. The Defendant incorporates by reference the paragraphs above.

212. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

213. The Defendant does not respond to this paragraph of the Plaintiffs' Complaint as the allegations and count are not directed towards him.

PRAYER

WHEREFORE, the Defendant denies all wrongdoing and further denies that the Plaintiffs are entitled to any relief or judgment in their favor, including (but not limited to): (1) compensatory damages; (2) special damages; (3) punitive damages; (4) interest, costs and/or attorneys' fees; or (5) any other type of relief. Rather, the Defendant states that he is entitled to judgment in his favor against the Plaintiffs. The Defendant therefore requests that this Honorable Court dismiss the Plaintiffs' Complaint, with prejudice, and award interest, costs and attorneys' fees for the Defendants and against the Plaintiffs.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Plaintiffs' Complaint fails to state a claim for which relief can be granted.

Second Affirmative Defense

The Defendant is protected by and entitled to qualified immunity and absolute immunity.

Third Affirmative Defense

The Defendant was privileged in conduct and acts, and, therefore, the Plaintiffs cannot recover.

Fourth Affirmative Defense

The Defendant was justified in all acts and/or conduct, and, therefore, the Plaintiffs cannot recover.

Fifth Affirmative Defense

The Defendant's acts and conduct were performed according to and protected by law and/or legal process, and, therefore, the Plaintiffs cannot recover.

Sixth Affirmative Defense

This action is barred by the applicable statute of limitations.

Seventh Affirmative Defense

The Plaintiffs cannot recover because of the provisions of M.G.L. c. 258.

Eighth Affirmative Defense

Any alleged damages were caused by the Plaintiffs' own conduct or by person(s) or an entity over which the Defendant has no responsibility or control.

Ninth Affirmative Defense

The Plaintiffs' damages were caused by the Plaintiffs' own conduct and acts.

Tenth Affirmative Defense

The Defendant cannot be held liable for punitive damages.

Eleventh Affirmative Defense

The Defendant cannot be held liable under the Massachusetts Civil Rights Act (MCRA).

Twelfth Affirmative Defense

The Defendant is protected by and entitled to common law and good faith immunity.

Thirteenth Affirmative Defense

The Defendant cannot be held liable for claims of negligence pursuant to the provisions of M.G.L. c. 258.

JURY CLAIM

THE DEFENDANT CLAIMS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE.

Respectfully submitted,
The Defendant,
Nicholas Hoar,
By his attorney,

/s/ Thomas R. Donohue
Thomas R. Donohue, BBO# 643483
BRODY, HARDOON, PERKINS & KESTEN, LLP
699 Boylston Street, 12th Floor
Boston, MA 02116
(617) 880-7100
tdonohue@bhpklaw.com

DATED: February 19, 2021

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

/s/ Thomas R. Donohue
Thomas R. Donohue, BBO# 643483

DATED: February 19, 2021